



# SOCIO – ECONOMIC JUSTICE AND THE RIGHT TO EDUCATION

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## ABSTRACT

Education is an essential and integral component for human development, and consequently it may be regarded as a basic right, beyond security and subsistence. It helps to overcome exploitations and the traditional inequalities of caste, class and gender. It is a preparation for living in a better way in future with an ability to participate successfully in the modern economy and society.

The founding fathers of Indian Constitution had the vision of time bound policy of free and compulsory education for all children until they complete the age of 14 years. This was introduced as a Directive Principles of State Policy. One of the most important developments in educational sphere is insertion of Article 21-A to the Constitution by the 86th Amendment in 2002, which state, “The State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State may, be law, determine”. The Amendment replaced Article 45 by a new provision that says, “The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years”. It introduced new fundamental duty (K) under Article 51-A, which enjoins, “It shall be the duty of every citizen of India who is parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and 14 years.”

**KEY WORDS:** Socio – Economic, Justice, Education, Child, Amendment, Constitution.

## INTRODUCTION:

At the time of birth, we do not find much difference between a baby of a human and a new born of other animals in the sense that human baby performs almost all actions which are performed by the new born baby of any other animal. Only education<sup>1</sup> and philosophy can make a human child really human.<sup>2</sup> There are certain necessities without which a man cannot live a life of his own<sup>3</sup> and education is one of the basic necessities of life.<sup>4</sup>

The future custodians of all the present philosophies, including Sovereignty, rule of law, justice liberty, fraternity and international peace and security, are the children.<sup>5</sup> They are, indeed, future shoulders in the form of great scientists, rulers, administrators, philosophers, legislators, teachers, Judges, Engineers, technologists, planners, workers and politicians on whom the nation rests.<sup>6</sup>

## Why Education?

It is stated that 'child is the father of man'. To enable fathering of a valiant and vibrant man, the child must be groomed well in the formative years of his life. He must assume education,<sup>7</sup> gain knowledge of man and materials and blossom in such an atmosphere that on reaching age, he is found to be man with a mission, a man who matters so far as the Society is concerned.<sup>8</sup>

Education is the basis for the development and empowerment for every nation. It plays a vital role in understanding and participating in day to day activities of today's world.<sup>9</sup> The most important function of education is enriching the character<sup>10</sup> and plays significant role in transmitting one's culture, beliefs and values to others in society. It helps in creating innovations and meeting the growing needs to every nation. The development of a nation is not measured through the buildings it has built, the roads it has laid down, bridges it has constructed but by the human resources, the nation has developed through a well defined system of education. Although the physical facilities are usually important but they are perishable and valuable. In the absence of proper education, the nation can hardly develop these and maintain them. Education is therefore more crucial factor not only to equip the new generations with skills so essential for earning a livelihood but also to create among them an awareness to social and environmental realities and inculcate in them scientific temper, independence of mind and spirit which are of paramount important for them to become responsible citizens.<sup>11</sup>

## Socio – Economic Justice V/s The Right to Education:

After Independence the founding fathers of Constitution realised that the entire philosophy of Education in India must be revolutionised. In the mid of twentieth century the Indian Constitution came into existence with the goal of welfare state, to achieve the socio-economic justice for general masses in India. The Constitution framers were primarily reformists and secondary constitutionalists who fought against Britishers for their valuable human rights. As realized and said by great philosopher and constituent assembly member S. Radhakrishnan for achieving the goals of socio-economic justice, two things are indispensable namely, education and freedom.<sup>12</sup> The framers of the Constitution were aware of the fact that for success of democratic government, education is one of the basic components. Education is the potent mechanism for the advancement of human

being. A man without education is not more than an animal.<sup>13</sup>

A welfare state denotes a concept of government, in which the State plays a key role in the protection and promotion of the economic and social well being of all its citizens, which may include equitable distribution of wealth and equal opportunities and public responsibilities for all those, who are unable to avail for themselves, minimal provisions for a decent life. It refers to “greatest good of greatest number and the benefit of all and happiness of all”.<sup>14</sup> The Indian Constitution through its preamble emphatically declares that the Socialist Democratic Republic of India shall be a welfare State committed to the ideal of socio-economic justice.<sup>15</sup> The preamble of the Constitution promises to secure for all its citizens justice – “Socio-economic and political”,<sup>16</sup> combining social and economic rights along with political and justifiable legal rights.<sup>17</sup>

The preamble message of Socio-economic justice has been translated into several Articles dealing with its different facets in Part III and IV of the Constitution. The former contains the fundamental rights of the citizens and the latter deals with the directive principles of state policy. Both of them have common grounding and have been rightly described as the “Conscience of the Constitution”.<sup>18</sup>

These ideals are applicable in all spheres and form an essential facet of development in India. Building a national system of education is not exception to this. Rather, a national system of education on the principles of Social Justice<sup>19</sup> and equality creates the necessary ground for achieving the ideals embodied in the Constitution. The Preamble of the Constitution further secures, “equality of status and of opportunities and assures dignity of the individual. Dignity of the individual cannot be assured until he gets an opportunity to receive education, though, “Right to Education was not, before the 86<sup>th</sup> Amendment expressly enshrined in the Constitution as fundamental right, but while interpreting the provisions of the Constitution, courts made the Right to Education as fundamental right while interpreting the scope of Article 21 of the Constitution. Articles 21, 41, 45, and 46 of the Constitution provides for the right to education.

A few case laws are worth mentioning here.

In *Mohini Jain v. State of Karnataka*,<sup>20</sup> the Supreme Court expounded upon the import of 'Right to Education'<sup>21</sup> by holding, “It is no doubt correct that right to education as such has not been guaranteed as a fundamental right under Part III of the Constitution but reading the provisions cumulatively it becomes clear that the framers of the Constitution made it obligatory for the State to provide education for its citizens. The right to education flows directly from right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education:

Further, the Constitutional Bench of the Supreme Court, in *UnniKrishnan v. State of A.P.*,<sup>22</sup> held that, the citizens of this country have a fundamental right to education.<sup>23</sup> By virtue of the above said decision the 16<sup>th</sup> Report of the Law Commission of India and *The Recommendations made by the Standing Committee of*

*Parliament, Eighty – Sixth Amendment Act, 2002*, was made which inserted Articles 21-A and 51-A(K) in the Constitution to resolve the educational problems in the country.

Article 21 – A<sup>24</sup> is a landmark development for free compulsory education to all the Children. Further the 86<sup>th</sup> Amendment, has substituted a new language for Article 45<sup>25</sup> of the Constitution, providing for early childhood care and education to children below the age of six years. Apart from the above, Article 51-A(K)<sup>26</sup> was added in the Constitution providing for a fundamental duty. In order to strengthen the Constitution, Parliament took a very encouraging step by giving, *Right of Children to Free and Compulsory Education Act, 2009 to India (RTE)*. With this India has joined the elite league of few countries where education is fundamental right for every child. While declaring the good cause, Karin Hulshof, UNICEF representative in India said that RTE will prop India to even greater heights of prosperity and productivity for all guaranteeing children their to quality education and a higher future.<sup>27</sup>

#### CONCLUSION:

Though, 'Right to Education' has been expressly made a fundamental right by incorporating Article 21-A, of the Constitution, a lot of efforts are required to make this right a reality. There is a fear that much – heralded Right to Education may prove to be a mirage, politically only a populist gesture. However, through the Amendments and the enactment of the *RTE Act*, India has sent a powerful message to the world at large that our Country has irrevocably become conscious of the importance of education, the key to success, inspite of the various barriers to this endeavour, namely, financial constraints, uphill task of execution, wide prevalence of corruption, etc. This is a welcome move and Government deserves a salute, a major step towards achieving the Socio – Economic Justice, enshrined in the Constitution of India.

#### REFERENCES:

1. Mahatma Gandhi defined 'education' in general and inclusive sense and he said, "By education, I mean an all round drawing out of the best in child and man-mind, body and spirit". He gave the concept of 3 'H's i.e., Head, Heart and Hand. Head for mental or cognitive development; Heart for spiritual/emotional development; and Hand for Physical or Psycho-motor or skill development. All these aspects of human personality are essential to have holistic development of her/his personality.
2. Hon'ble Dr. Justice S.R. Nayak, cited from his inaugural Address at the National Conference on "Right to Education: Accessibility and Quality Dimension" organised by Karnataka State Law University, Hubballi, on 27th March, 2015, reported in (2015) III KSLUJ at 1.
3. Dr. Ratan Singh, "The Right to Free and Compulsory Education Act in India: A Transmission to Required Education Zone, Indian Bar Review Vol XXXVIII(3) 2011 at 89.
4. Dr. Shalu, "Right to Education and the Constitution (Eighty Sixth Amendment) Act, 2002", Indian Bar Review Vol. XXXV(1 to 4) 2008 at 189.
5. "At the Childhood, the young kid's minds are like a clean slate, on which you can write whatever you want, and it continues throughout his life. The young ones are the budding citizens of Bharat of tomorrow, and it is in the hand of the service providers to show them the righteous path, and in turn build a value based democratic nation or destroy the nation, through, what Mahatma Gandhi, said, an Adharmic Education
6. Srinivas Gupta, "Right of the Child to Education in India", Indian Bar Review, Vol. 29(2) 2002 at 75-76
7. Justice M. Rama Jois, "Be Immortal", Lawyers Update, January 2015 at 7.
8. Jai S. Singh, "Expanding Horizons of Human Right to Education: Perspective on Indian and International Vision", Journal of Indian Law Institute, Vol 52:1, 2010 at 34.
9. Supra note 3 at 30.
10. Nani. A. Palkhivala, "Purpose of Education," , Lawyers Update, April 2013 at 15.
11. P. L. Mehta and Rakhi Poonga, Free and Compulsory Education, 1997, Deep and Deep Publication, Delhi at 1.
12. Shiv Sahai Singh, Human Right Education and the Constitution, Human Right Education, Law and Society, Hyderabad, NALSAR University, 2004.
13. Supra note 3 at 94.
14. V. N. Shukla's, Constitution of India , 12th edn., 2015, Eastern Book Company, Lucknow, at S-46.
15. Dr. B. R. Sharma, Socio-Economic Justice under Indian Constitution, 1984, Deep and Deep Publications, New Delhi, at 20.
16. Niranjana Radhaya. V. P., "The Right to Education, Constitution and the Common School System in India", Supra note 18 at 64.
17. Dr. B. R. Ambedkar had used appropriate words at the time of the birth of our Constitution to put forth the goal of building a new India on the ideals and goals embodied in the Constitution – created by her own people and representing the masses, adopted to secure the ideals of social justice, equality and equity. Ibid at 57.
18. Glanville Austin, Indian Constitution: Cornerstone of Nation, 1966, at 50.
19. The purpose of Rule of Law is (a) to protect the Fundamental Rights of the individual and (b) to establish social justice, so that an individual citizen can attain his legitimate aspirations and dignity of man may be assured. Cited from, P.C. Pati, "Rule of Law and Social Change: Indian Experience", Indian Bar Review, Vol. 19 (3 and 4), 1992 at 32.
20. AIR 1992 SC, 1858.
21. See also Brown v. Board of Education, 1953, 98 Law Ed., US, 873, Earl Warren, C.J., U.S. Supreme Court explained the Significance of Education in these following words; "It is very foundation of good citizenship. Today, it is principle instrument in awakening the child to cultural values, in preparing him for later professional training and in helping him to adjust normally to environment. Citizen are the future of our nation. The quality of education will determine the quality of education".
22. AIR 1993 SC 2178, See also, Francis C. Mullin v. Administrator, Union Territory of Delhi, AIR 1981 SC 746; University of Delhi v. Shri Anand Vardhan Chandal, AIR 1998(5).
23. Also refer to Articles 41, 45 and 46 of the Constitution of India. They speak about the right to education. See also, Law Commission of India's 165th Report on Free and Compulsory Education for Children, at 1-10.
24. Article 21-A, "The State shall provide free and compulsory education to all children of age of six to fourteen years in such manner as the State may by law, determine. The Supreme Court in Avinash Mehrotara v. Union of India, (2009) 6 SCC 398, observed that implicit in Article 21-A is a reciprocal agreement between the State and family, which places burden on all participants of civil society. Unlike other fundamental rights, the right to education places burden not only on the State but also on parent/guardian. Chanakya more than 2300 years back had said: "That mother and the father are enemies, who do not give education to their children".
25. Article 45, "The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years".
26. Article 51-A(K) states as follows, "who is a parent or guardian of a child is under a duty to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years".
27. The Tribune, April 1, 2010, at 1.